

JONES, WALDO, HOLBROOK & McDONOUGH

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS

DONALD B. HOLBROOK
CALVIN L. RAMPTON
W. ROBERT WRIGHT
RANDON W. WILSON
RONALD J. OCKEY
ROBERT M. McDONALD
JACK LUNT
EDWARD J. McDONOUGH
JAMES S. LOWRIE
RONNY L. CUTSHALL
MICHAEL R. MURPHY
CHRISTOPHER L. BURTON
LARRY C. HOLMAN
WILLIAM B. BOHLING
D. MILES HOLMAN
ROBERT S. McCONNELL
GLEN D. WATKINS*
ANDREW W. BUFFMIRE
RUSSELL H. LOWE
ROBYN O. HEILBRUN
THOMAS E. K. CERRUTI
CRAIG R. MARIGER

DAVID B. LEE*
WILLIAM GRAY SCHAFFER*
BRUCE E. TITUS*†
L. R. CURTIS, JR.
GRETTE C. SPENDLOVE
KENT T. ANDERSON
TIMOTHY B. ANDERSON
GREGG I. ALVORD
LARRY A. STEELE
SUZANNE WEST
ELIZABETH M. HASLAM
WILLIAM G. STEHLIN
L. JOHN LEWIS
G. RAND BEACHAM
RANDALL N. SKANCHY
JANET C. GRAHAM
BRIAN W. STEFFENSEN
ROY A. WILLIAMS
CAROLYN COLTON
DUKE F. WAHLQUIST
DAVID R. MONEY
JEFFREY L. FILLERUP

OF COUNSEL
JOSEPH S. JONES
ROGER J. McDONOUGH
HUGH W. COLTON

*ADMITTED AND RESIDENT IN WASHINGTON, D.C.
†ADMITTED AND RESIDENT IN VIRGINIA

SHEEKS & RAWLINS 1875
RAWLINS & CRITCHLOW 1891
RAWLINS, THURMAN, WEDGEWOOD & HURD 1897
RAWLINS, RAY & RAWLINS 1907
INGEBRETSEN, RAY & RAWLINS 1929
INGEBRETSEN & CHRISTENSEN 1941
INGEBRETSEN, RAY, RAWLINS & JONES 1948
RAY, RAWLINS, JONES & HENDERSON 1949

November 7, 1983

RECEIVED
NOV 15 1983

DIVISION OF
OIL, GAS & MINING

Re: Silver Reef Mine ACT/053/002
Washington County, Utah

Dear Mr. Smith:

Our client, 5M Incorporated, has asked us to respond to your most recent letter as well as your correspondence dated September 16, 1983.

Specifically, 5M takes exception to the excessive amount of the bond presently demanded. This has been an apparent source of dispute since 5M first submitted its Notice of Intention to Commence Mining Operations back in 1978. We are also concerned about the degree of regulation which is being asserted over our client's use of its own private patented mining claims and have some doubts as to whether the Mined Land reclamation Act is within constitutional limits in this regard.

Although we are contemplating the appropriate measures, we would at present endeavor to propose a possible solution to the problem of the bond requirement as follows: In reviewing the documentation between the State and 5M, it appears as though the \$84,375.00 is to cover the development of the initial 75 acres of the project. Initially 5M contemplated reclamation of areas subjected to open pit mining techniques on a periodic basis, rather than based upon the amount of area subjected to excavation. 5M, however, would be willing to enter into a written stipulation in which it would implement its reclamation plan on a "reclaim-as-you-go" basis, or, in effect, never allow more than 10 acres of surface to be subjected to open pit mining

File ACT/053/002
Copy to Dianne,
Ran D., Pam,
Steve & M &
and Barbara

SALT LAKE CITY OFFICE
800 WALKER BUILDING
SALT LAKE CITY, UTAH 84111
TELEPHONE (801) 521-3200

WASHINGTON, D.C. OFFICE
SUITE 700
919 18TH STREET, N.W.
WASHINGTON, D.C. 20006
TELEPHONE (202) 296-5950
TELECOPIER (202) 293-2509

RESTON OFFICE
1810 MICHAEL FARADAY ROAD
SUITE 102
RESTON, VIRGINIA 22090
TELEPHONE (703) 437-8242

ST. GEORGE OFFICE
ONE SOUTH MAIN STREET
ST. GEORGE, UTAH 84770
TELEPHONE (801) 628-1627

VERNAL OFFICE
55 EAST MAIN STREET
VERNAL, UTAH 84078
TELEPHONE (801) 789-1664

IN REPLY REFER TO:

St. George

Mr. James W. Smith
November 7, 1983
Page 2

operations at any one time. 5M would thus be required to reclaim any disturbed surface areas prior to moving into other areas once its open pit operation was 10 acres in size. Any expansion beyond 10 acres without reclamation would subject 5M to forfeiture of its bond and violation of the Mined Land Reclamation Act.

This proposal would have two benefits: (1) 5M, in its present limited financial situation would be able to meet the surety requirements of the Mined Land Reclamation Act, and (2) Reclamation would occur on an ongoing basis rather than at the end of the operation when the operator may not be overly attentive to the need and the bond may be insufficient to cover the job. This would insure the objectives of 40-8-12.

5M has put substantial amounts of money into the mine to bring it back on line. It would be extremely difficult for our client to post an additional \$84,375.00 cash as a surety bond. The mine has the potential of being a major employer in the Washington County area if it can just get through the preliminary stages of operation, thus, the reclaim-as-you-go proposal would seem to make sense inasmuch as it would protect the interests of all parties involved.

As far as the form of the surety is concerned, 5M would be willing to give a Trust Deed to the State on valuable real estate properties to secure performance. The land which 5M presently has in mind for this purpose is valued at not less than \$1,000.00 per acre, and 5M would be willing to secure the 10 acre "reclaim-as-you-go" plan with 20 acres of real estate. 5M, however, would need to reserve the option to replace the Trust Deed with a cash bond in the future at such point that it desired to move forward with development of the real estate. At such time the ten acre "reclaim-as-you-go" restriction would be relaxed.

At present 5M has not yet exceeded the two acre exception from the Mined Land Reclamation Act set forth in 40-8-4 (6). It does, however, in the near future, intend to move forward with mining operations which will exceed the limit. Accordingly, the above proposal is made in order to resolve the concerns expressed in your most recent correspondence and to allow 5M to pursue its intended plan of operation without further regulatory problems. In the event you feel that our proposal is

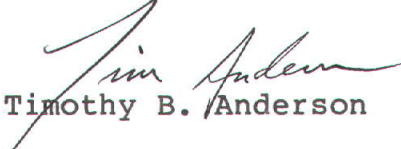
Mr. James W. Smith
November 7, 1983
Page 3

unreasonable, we would appreciate the opportunity to discuss the matter with you before it becomes necessary for the parties to resort to litigation.

Awaiting your response, I am

Respectfully,

JONES, WALDO, HOLBROOK & McDONOUGH


Timothy B. Anderson

TBA706:jdl

cc: Jerry Glazier
W. Robert Wright
Calvin L. Rampton